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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

JAMES R. GLIDEWELL DENTAL
CERAMICS, INC.,

Plaintiff,
vs.
KEATING DENTAL ARTS, INC.,
Defendant.

AND RELATED
COUNTERCLAIMS.

Case No. SACV11-01309-DOC(ANx)

**JAMES R. GLIDEWELL DENTAL
CERAMICS, INC.'S NOTICE OF
MOTION AND MOTION FOR
PARTIAL SUMMARY JUDGMENT
RE INFRINGEMENT OF A
FEDERALLY REGISTERED MARK
(FIRST CAUSE OF ACTION) AND
DISMISSAL OF DEFENDANT'S
SECOND AFFIRMATIVE DEFENSE
AND FIRST COUNTERCLAIM**

Hearing

Date: December 17, 2012
Time: 8:30 a.m.
Ctrm: 9D, Hon. David O. Carter

Pre-Trial Conf.: January 28, 2013
Jury Trial: February 26, 2013

1 PLEASE TAKE NOTICE that on December 17, 2012, at 8:30 a.m., or as
 2 soon thereafter as counsel may be heard in Courtroom 9D of the above-entitled
 3 court, plaintiff and counter defendant James R. Glidewell Dental Ceramics, Inc.
 4 (“Glidewell”) will, and hereby does, move the Court for an order under Rule 56 of
 5 the Federal Rules of Civil Procedure as follows:

6 For partial summary judgment that defendant and counterclaimant Keating
 7 Dental Arts, Inc. (“Keating”) infringes Glidewell’s registered BruxZir mark
 8 (Glidewell’s First Cause of Action) and for dismissal of Keating’s Second
 9 Affirmative Defense (No Likelihood of Confusion) and First Counterclaim
 10 (Declaratory Judgment of Non-Infringement), on the grounds that (1) Glidewell’s
 11 registered BruxZir mark is valid and protectable, and (2) Keating’s marketing of
 12 competing goods under the KDZ Bruxer brand is likely to cause confusion among
 13 an appreciable portion of relevant consumers. Confusion is likely to result from
 14 Keating’s use of the KDZ Bruxer brand because (1) Glidewell’s BruxZir mark is
 15 both conceptually and commercially strong, (2) the goods that Glidewell and
 16 Keating sell under their respective BruxZir and KDZ Bruxer marks directly
 17 compete, (3) the BruxZir and KDZ Bruxer marks are substantially similar in
 18 appearance and meaning, (4) there is substantial evidence of actual confusion
 19 engendered by Keating’s use of the KDZ Bruxer mark, (5) Glidewell’s BruxZir-
 20 brand dental crowns and bridges and Keating’s KDZ Bruxer dental crowns and
 21 bridges are marketed through the same channels, (6) the goods at issue here are not
 22 such as to require a high degree of care in selecting between brands, and even if
 23 they were, the presence of actual confusion among sophisticated consumers
 24 enhances (rather than detracts from) the showing that confusion is likely, and (7)
 25 Keating knew of Glidewell’s BruxZir mark when it selected its KDZ Bruxer mark
 26 to promote its competing goods.

27 This motion is based on this notice of motion and motion; the concurrently-
 28 filed Memorandum of Points and Authorities, Statement of Uncontroverted Facts

1 and Conclusions of Law, Appendix of Evidence, the pleadings and papers on file in
2 this action, and any argument received by the Court at the time of any hearing on
3 this motion.

4 Dated: November 19, 2012

5 SNELL & WILMER L.L.P.

6 By: *s/Philip J. Graves*

7 Philip J. Graves

8 Greer N. Shaw

9 Attorneys for Plaintiff

10 James R. Glidewell Dental Ceramics, Inc. dba
11 GLIDEWELL LABORATORIES

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1 ***Glidewell Laboratories v. Keating Dental Arts, Inc.***
2 United States District Court, Central, Case No. SACV11-01309-DOC (ANx)

3 **CERTIFICATE OF SERVICE**

4 I hereby certify that on November 19, 2012, I electronically filed the
5 document described as **JAMES R. GLIDEWELL DENTAL CERAMICS,**
6 **INC.'S NOTICE OF MOTION AND MOTION FOR PARTIAL SUMMARY**
7 **JUDGMENT RE INFRINGEMENT OF A FEDERALLY REGISTERED**
8 **MARK (FIRST CAUSE OF ACTION) AND DISMISSAL OF**
9 **DEFENDANT'S SECOND AFFIRMATIVE DEFENSE AND FIRST**
10 **COUNTERCLAIM** with the Clerk of the Court using the CM/ECF System which
11 will send notification of such filing to the following:

12 David G. Jankowski
13 Jeffrey L. Van Hoosear
14 Lynda J Zadra-Symes
15 Knobbe Martens Olson and Bear LLP
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26 Dated: November 19, 2012

27 SNELL & WILMER L.L.P.

28 By: *s/Philip J. Graves*
29 Philip J. Graves
30 Greer N. Shaw

31 Attorneys for Plaintiff
32 James R. Glidewell Dental Ceramics, Inc.
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